

# TAX EVASION – COMBATING TAX EVASION IN FIJI

Jitoko Tikolevu, CEO  
FIRCA



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# Presentation Outline

- ▶ Introduction
- ▶ Types Of Tax Evasion/ Avoidance
- ▶ Registered Taxpayer Population
- ▶ FIRCA's Role In Combating Tax Evasion
- ▶ Conclusion/ Way Forward

# Introduction

- ▶ An effective and efficient tax system is a crucial contribution to the national economy. (85% of Total Govt Revenue is revenue collected from Tax; 22% of GDP)
- ▶ Tax evasion is not specifically defined in the ITA
  - Taylor V Attorney General (1863) NZLR 261, 262 states that evasion requires “an intention to endeavour to avoid payment of tax known to be chargeable”
- ▶ Tax evasion and avoidance undermine the ability of a government to raise revenue
- ▶ Difficult to monitor the level of tax evasion

# Introduction

## Level of Tax Evasion:

- ▶ NZ Estimate: NZ\$3.2bn in 2000
- ▶ US: US\$310bn in 2004

## Worldwide:

- ▶ US\$900bn Developing Economies (Global Financial Integrity Research 2008)
- ▶ US\$385bn Developing Economies (Alex Cobham, The Guardian, UK 2006)
- ▶ US\$160bn Developing Economies (Chrstian Aid May 2008)

# TYPES OF TAX EVASION/ AVOIDANCE

## a) Underground Economy

Table: Comparative Analysis of Tax Gap (1999–2000)

Countries	Tax Gap (% of GDP)
Phillipines	43.4
Thailand	52.6
Nepal	38.4
Sri Lanka	44.6
Cameroon	32.8
Kenya	34.3
Jamaica	36.4
Brazil	39.8
Japan	11.3
France	15.3
UK	12.6
Switzerland	8.8
Canada	16.4
Australia	15.3
New Zealand	12.7

Source: The Value of Underground Economies – Prof. F. Schneider, Uni. Of Linz, Austria



# TYPES OF TAX EVASION/ AVOIDANCE

## b) Tax Avoidance

- Profit -splitting schemes
- Employing own family members on low wages
- Providing non-cash fringe benefits to employees

## c) Tax Evasion

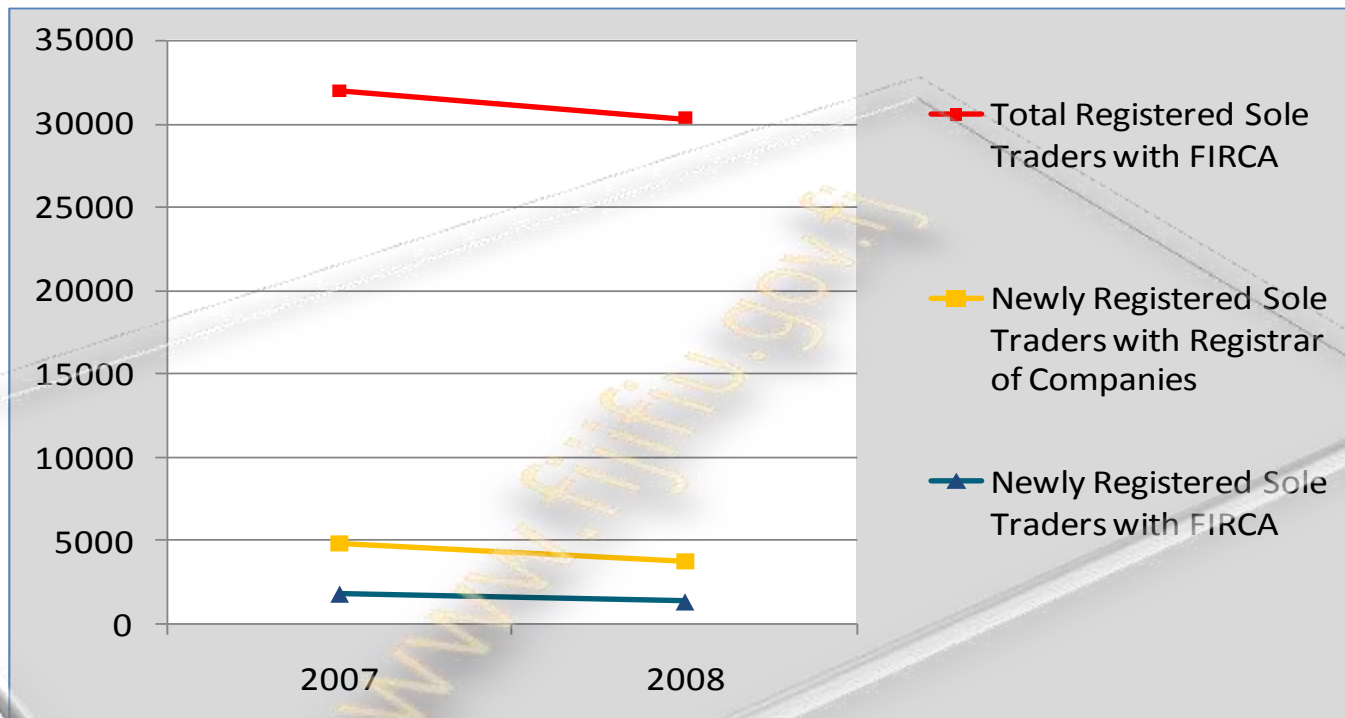
- i. Cash receipts
- ii. Under-the-table dealings
- iii. Off-the-books.

# Areas of Non-Compliance

- ▶ Generally, the three main areas of non-compliance are:
  1. Under-reporting of income or overstating expenses
  2. Under-payment of taxes and when taxpayers file their return but fail to remit the amount due by the payment due date.
  3. Non-filing of returns
- ▶ Failure to comply can be attributed to a number of reasons such as ignorance of the law, illiteracy, sickness, and old age.
- ▶ Taxpayers also blame Tax administrators – Legislation
- ▶ The most serious of these offences is under-reporting of income.
  - Linked to the ‘underground economy’.

# Registered Taxpayer Population

## ▶ Sole Traders (Individual)

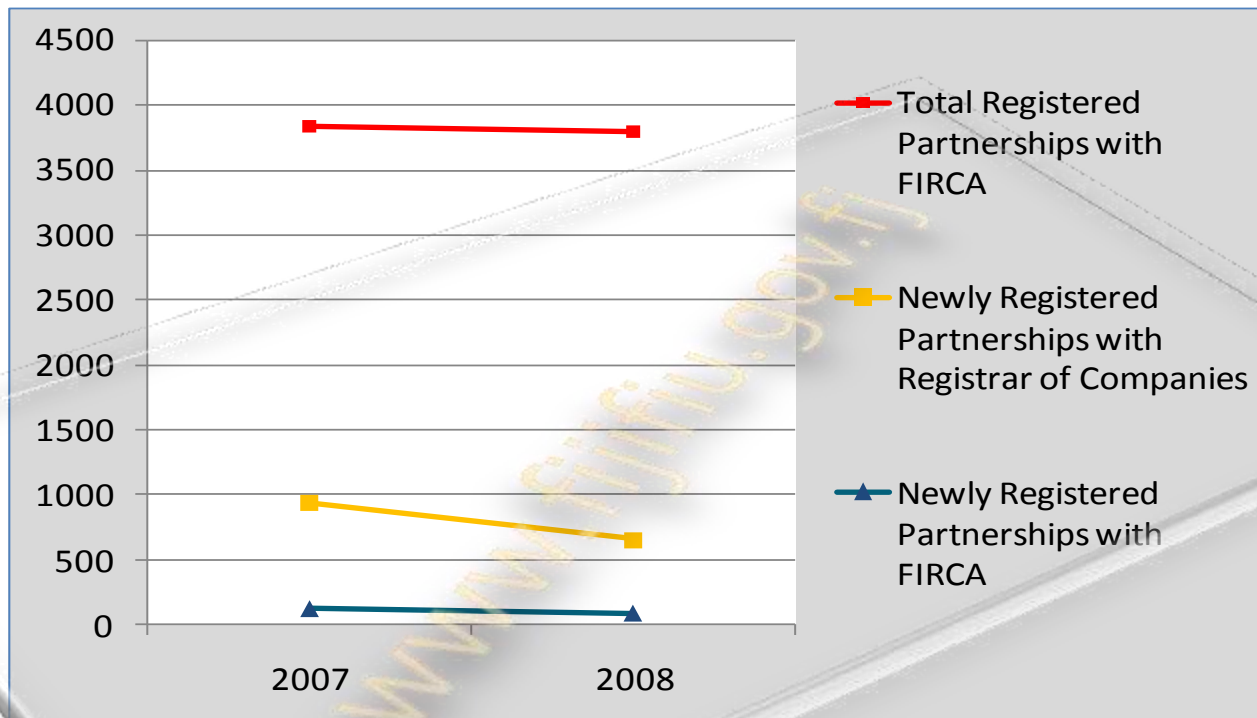


	Newly registered (Reg. of Companies)	Newly Registered (FIRCA)	%
2007	4,782	1,762	36.8
2008	3,711	1,312	35.4



# Registered Taxpayer Population

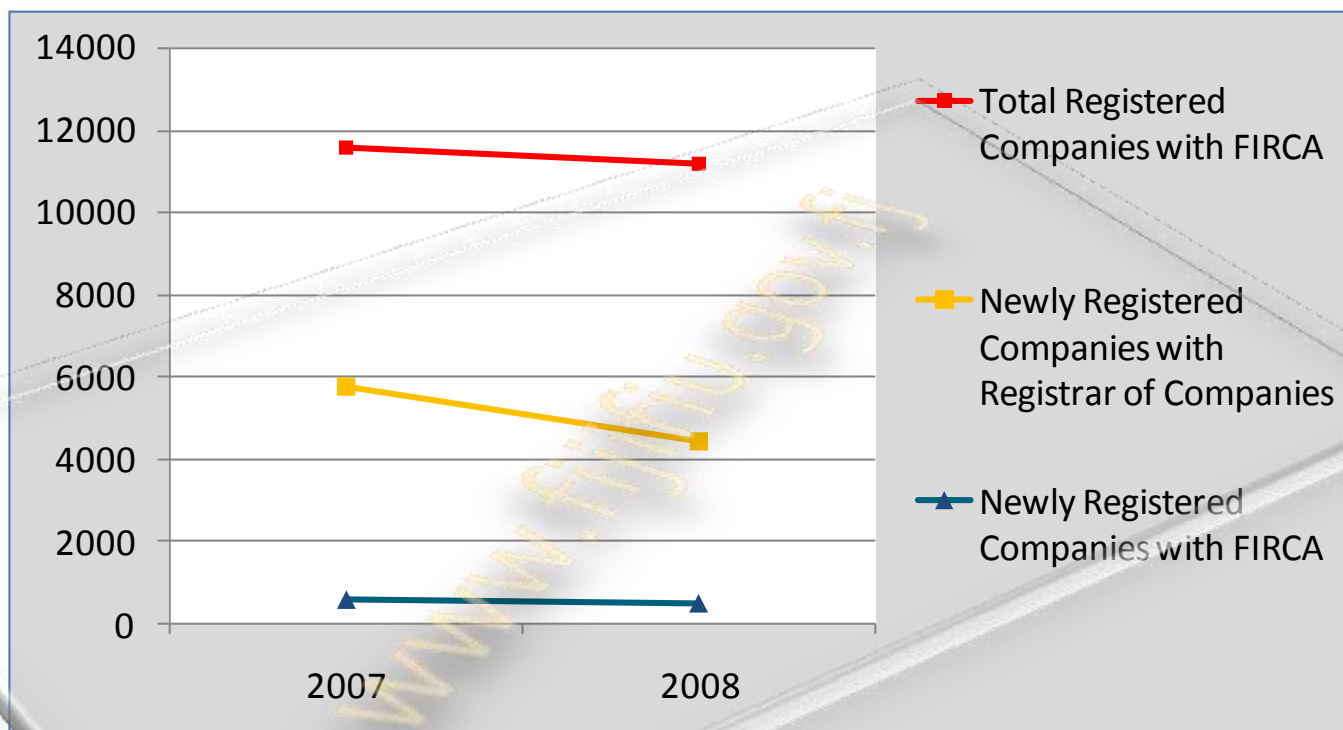
## ▸ Partnerships



	Newly registered (Reg. of Companies)	Newly Registered (FIRCA)	%
2007	932	119	12.8
2008	651	85	13.1

# Registered Taxpayer Population

## ▶ Companies



	Newly registered (Reg. of Companies)	Newly Registered (FIRCA)	%
2007	5,726	575	10
2008	4,418	485	11

# FIRCA's Role In Combating Tax Evasion

- ▶ The Authority's role is to administer the tax laws in Fiji.
- ▶ Ensure compliance by taxpayers with the legislation administered by the Authority.
- ▶ Enforce compliance by reviewing taxpayers' tax affairs based on the tax risk areas.
- ▶ The Audit & Compliance Section is structured into three main areas to ensure efficient administration, namely:
  - Large International Compliance
  - Small/Medium Compliance
  - Fraud & Evasion Unit

# FIRCA's Role In Combating Tax Evasion

## ▶ Audit results for 2005 – 2007

Year	Large/ International (\$)	Special Project Team (\$)	Small & Medium (\$)	Fraud & Evasion (\$)	TOTAL (\$)
<b>2005</b>	15,960,992	-	14,991,716	8,429,721	<b>39,382,429</b>
<b>2006</b>	22,500,000	47,400,000	12,230,873	1,800,000	<b>83,930,873</b>
<b>2007</b>	32,586,390	9,061,321	18,004,003	185,683	<b>59,837,397</b>
<b>Total</b>	<b>71,047,382</b>	<b>56,461,321</b>	<b>45,226,592</b>	<b>10,415,404</b>	<b>183,150,699</b>

# FIRCA's Role In Combating Tax Evasion

- ▶ Using relevant provisions in the laws
- ▶ The low perceived seriousness of the crime of tax evasion, combined with a lack of enforcement efforts, had led to an environment where many people do not report taxable income or do not pay their income taxes.
- ▶ Voluntary Tax Compliance through community awareness programs and tax education



# FIRCA's Role In Combating Tax Evasion

## ► Penalties

Legislation	Section	PENALTIES
Income Tax Act	95(i) Omitted Income Penalty	<p>(a) Additional tax due + 10% per annum on tax on omitted income</p> <p>(b) If <math>10% &lt; \text{Omitted Income} &lt; 20\%</math>. Penalty is one half of deficiencies of the omitted income</p> <p>(c) If deficiency more than or equal to 20% of the correct income, pay additional amount equal to deficiency</p>
	95(ii) False Statement in a claim of allowances, reliefs etc	<p>(a) Additional tax due + 10% additional interest penalty</p> <p>(b) If <math>10% &lt; \text{False statement} &lt; 20\%</math>. Penalty is one half of deficiencies of the omitted income</p> <p>(c) If deficiency more than or equal to 20% of the correct income, pay additional amount equal to deficiency</p>
	96 (ii) (a)–(f) Willful with Intent to Evade	<p>(a) Fine of \$400 and</p> <p>(b) Treble the amt of Tax or</p> <p>(c) Imprisonment for 6 mths or</p> <p>(d) Both fine and imprisonment</p> <p>(e) CIR may compound any offence under Sect. 96</p>

# FIRCA's Role In Combating Tax Evasion

## ► Penalties

Legislation	Section	PENALTIES
VAT Decree 1991	76 Penalty in case of evasion	Penal Tax – Equal to treble the amt of deficient tax
	76A Understatement or Overclaim in VAT	Penal Tax – Equal to Treble the amt of deficient tax

# FIRCA's Role In Combating Tax Evasion

## 1. Enforcement measures

- Site inspections
- Third party reporting systems
- Leads from other audit files
- Lifestyle audits (e.g asset betterment Statement)
- Heavy penalties (Examples /Case study for presentation)

## 2. Voluntary compliance

- People encouraged to visit our Customer Enquiry Center and Taxpayer Education Unit
- Provisions for review of penalties

## 3. Public information

- ▶ Whistleblowing Policy

## 4. Networking with Other Law Enforcement Agencies In Fiji (e.g. Fiji Financial Intelligence Unit)

# FIRCA's Role In Combating Tax Evasion

- ▶ The summary of the Case Dissemination Reports (CDRs) received from FFIU as follows:

As At	31 Dec 2003	31 Dec 2004	31 Dec 2005	31 Dec 2006	31 Dec 2007	31 Dec 2008	Total
CDRs Received	0	23	24	14	39	129	229

## Summary of Total Tax & Penalty (2004 – 2008)

Year Cases Closed	Omitted Tax (\$)	Approved Penalty (\$)	Total Tax and Penalty (\$)
2004	53,032.76	14,967.06	67,999.82
2005	34,708.45	5,206.27	39,914.72
2006	780,187.02	195,046.75	975,233.77
2007	97,584.37	19,064.16	116,648.53
Total	965,512.60	234,284.24	1,199,796.84
Omitted VAT	3,260.28	815.07	4,075.35
<b>Grand Total</b>	<b>968,772.88</b>	<b>235,099.31</b>	<b>1,203,872.19</b>

# FIRCA's Role In Combating Tax Evasion

## 5. Legal Action

Two Fiji cases that involved Tax Evasion and Tax Avoidance that had proceeded to the Court of Appeal:

### (A) Trotter v Senior Collector of Customs (1964) FLR Vol. 10,94.

Customs Ordinance Cap. 166 Section 106A (1)(b).

Mr. Trotter appealed to the Court of Appeal of his conviction at the Magistrate Crt of being knowingly concerned in an attempt at the fraudulent evasion of customs duty contrary to section 106A(1)(b) relating to unmanifested parcel (Hairdryer). Court held that prosecution failed to establish degree of certainty to warrant a conviction. Appeal was allowed.

### (B) Deo Narayan Sahay v Commissioner of Inland Revenue (1975) FLR Vol. 21,171

Income Tax Ordinance Cap. 176 Section 103.

Income Tax v Trust Deed.

A lease of property at unrealistically low rental by the settlers to Trust Company of which they were Directors.

Subsequent lease by the Trust Company of property at market rental. Issue: whether transaction classed as family dealing and not a means of avoiding tax.

The court ruled that the arrangements were a means to avoid tax and the deed was void against the Commissioner. The appeal was dismissed.



# FIRCA's Role In Combating Tax Evasion

6. Strengthen Information Sharing with DTA partners
7. Tax Amnesty

	Tax Collected
NZ (1988)	NZ\$23m
Fiji (2007)	F\$46m

8. Door to Door Survey

# Conclusion / Way Forward

- ▶ Improve HR capabilities
  - Monitor complex international tax issues
- ▶ Consider networking with other organizations
- ▶ Registrar of Companies, FNPF, FTIB, FIRCA to have a common ID no
- ▶ Continue to review & strengthen tax laws
- ▶ Proceed with initial plan to study underground economy in Fiji

»» Vinaka!

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